

IGNACIO SAN JOSE AND LORBNZA JIMENEZ, PLAINTIFFS AND APPELLEES, VS. PEDRO ORTEGA AND MARIA P. EUSEBIO, DEFENDANTS AND APPELLANTS.

G.R. No. 4483. October 14, 1908

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

This case was submitted to this court by virtue of an appeal interposed by the defendants against the judgment of the Court of First Instance of Manila whereby they were sentenced jointly and severally to pay to the plaintiffs the sum of P1,000, with legal interest thereon at the rate of 6 per cent from the 15th of September, 1906, the date on which the complaint was presented, until full payment was made, with costs; it appears:

- (1) That on the 6th of August, 1903, Pedro Ortega and his wife, Maria Pilar Eusebio, by a notarial instrument mortgaged two houses, one already built and the other under construction, to the spouses Ignacio San Jose and Lorenza Jimenez, in consideration of the sum of 1,150 pesos, Mexican currency, which were delivered to them and "payment of which will be due at the expiration of one year from the 6th of August, 1903."
- (2) That on the same date the said defendants executed another public instrument, apparently with two objects, one being for the purpose of increasing the security by means of certain musical instruments, and the other to make this agreement: "They will pay monthly, within the first five days of each month, the sum of 15 pesos and the balance until the sum of 1,150 pesos is completed, at the expiration of the term of this loan, namely, on the 6th of August, 1904."
- (3) That Pedro Ortega testified at the trial that he had only received 1,000 pesos, but that in the instrument setting forth the debt the sum of 1,150 pesos was stated; the 150 pesos being interest on the principal sum.
- (4) That the principal debt was not paid at the time it became due.
- (5) That on the 1st of March, 1905, the defendants executed a document wherein they declared themselves to be indebted to the plaintiffs in the sum of P180, which they engaged to refund by monthly installments of P15, payable within the first five days of each month. (Exhibit B.)
- (6) That on the 25th of March, 1905, the defendants made a promissory note, binding themselves to pay, jointly and severally, the sum of P1,000, payable to the plaintiffs or their order, on March 1, 1906. (Exhibit A.)
- (7) That the complaint herein, demanding payment of the P1,000, was presented on the 15th of September, 1906, and was based on the document last mentioned.
- (8) That at the trial the defendants offered in evidence thirty-five receipts signed by the plaintiff, Ignacio San Jose, proving the monthly payment of P15 made by Pedro Ortega, from the 31st of August, 1903, to the 30th of June, 1906, which documents were admitted by the creditor who signed them.

Hence the claim of the defendants is reduced to the fact that, as they had already paid P545, as shown by the

thirty-five receipts above referred to, they only owed P605.

The court below, in conclusion, finds that the evidence adduced at the trial shows the P15 referred to by the defendants were for interest due on the 1,000 pesos loaned by the plaintiffs to the said defendants at the time referred to by the latter, and that the debt of 1,000 pesos stated in the promissory note attached to the complaint and offered in evidence at the trial as Exhibit A is still owing at the present time.

The appellants allege the following as errors in the judgment appealed from:

- (1) That the court below based its decision upon the fact that it considered that they had not specifically denied the document attached to the complaint, that is, Exhibit A, or the promissory note signed by them.
- (2) In that the said document was given a value which it does not possess, thereby holding that the debt therein set forth is still owing.
- (3) In that the P15 paid monthly were considered as interest on the loan of 1,000 pesos.

The first of the alleged errors has not been committed because the promissory note was unreservedly and unconditionally acknowledged and admitted, and, the signature being recognized, in order to protest the document which had been voluntarily subscribed, it was necessary to prove the existence of fraud or falsity, circumstances that have not been shown: the only allegation made at the trial was that the defendants had signed the document in the belief that they were signing an extension of the time for the payment of the obligation.

That which appears is an obligation confirming the original debt of 1,000 pesos, and for the interest which would accrue during, one year, the term of the new obligation, the appellants signed another document of indebtedness for P180, payable at the rate of P15 each month.

The second of the errors alleged does not exist. Rather, on the contrary, it is proper and in accordance with law to accord a document its value, once it has been recognized or acknowledged, and its contents are not disproved, as in the case of the note which forms the basis of this action. Neither does the alleged third error exist, in considering that the P15 paid monthly, from the 31st of August, 1903, to the 30th of June, 1906, were paid as interest, and not on account of the principal, as claimed by the appellants. With reference to the execution of the document Exhibit A, Pedro Ortega, the debtor, positively stated: "As I was on terms of intimacy with him and had asked him to grant me an extension, I paid him the interest;" from which it is inferred that all amounts paid until the document dated March 1, 1905, was executed, were paid as interest which had thus far accrued. Moreover, such is the presumption of the law when the obligation bears interest as in this case, as testified by Ortega himself when he said that such was the purpose of the 150 pesos of the original obligation. (Art. 1173, Civil Code.)

Hence, it is impossible to sustain the contention of the appellants that, out of the capital of 1,000 pesos, they had paid 545 pesos, as shown by the thirty-five receipts produced in court, and that their indebtedness was reduced to 605 pesos.

Had the obligation contained in the notarial documents been entirely renewed by the note marked Exhibit A and the document marked Exhibit B, and had only these two documents been offered at the trial, it would necessarily have been held that, by reason of the payments made from the 31st of March, 1905, to the same date in 1906, the total amount of the indebtedness shown in Exhibit B, that is, P180, had been paid, and that, by the payments made in April, May and June, P45 had been paid on account of the principal sum of 1,000 pesos, set out in Exhibit A, and it would not have been just to sentence the defendant to pay the full amount of 1,000 pesos, but only 955 pesos. But it was the appellants themselves who showed the relation between the said documents and the former ones evidencing the debt of 1,000 pesos, and it is the defendant Ortega who alleged that it is a debt bearing

interest and that the P15 per month, which he paid until March, 1905, when he was given an extension of one year, constituted such interest; for this reason the P180 stated in Exhibit B as well as the P150 mentioned in the notarial instruments, both amounts being related to the principal sum of 1,000 pesos and payable in monthly installments of P15, are legally considered as interest agreed upon on the 1,000 pesos, the only amount really and actually received as a loan.

And, even if it were admitted that, according to the intention of the parties, the document marked Exhibit A merely expressed an extension of the obligation, and contained nothing but such extension, once Ortega had testified that the original debt bore interest, and that all the payments made so far at the rate of P15 per month were for interest, for "this was why he had paid interest," as he explicitly declared at the trial, no reason is given showing why the subsequent payments of P15 per month should be considered as paid on account of the principal and not like the previous ones on account of interest; the provision of article 1173 of the Civil Code is clear and express to the effect that, if the debt bears interest, payments can not be considered as made on account of the principal until the interest is covered.

Therefore, the judgment appealed from is in accordance with the law, and is hereby affirmed with the costs of this instance against the appellants. So ordered.

Torres, Mapa, Carson, Willard, and Tracey, JJ., concur.

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